

AN ACT

ENTITLED, An Act to revise certain provisions regarding crime victims' compensation.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 23A-28B-4 be amended to read as follows:

23A-28B-4. The commission shall:

- (1) Hear and determine claims for compensation as provided in §§ 23A-28B-32;
- (2) Promulgate rules, pursuant to chapter 1-26, governing conduct of hearings before the commission;
- (3) Assist the department in publicizing the availability of and procedures for obtaining compensation pursuant to the provisions of this chapter; and
- (4) Assist the department in developing, implementing and evaluating effective crime victim compensation policies and procedures.

Section 2. That § 23A-28B-28 be amended to read as follows:

23A-28B-28. The department shall receive, review and investigate, any application for victims' compensation which has been properly filed. Following such review and investigation the department shall issue an order pursuant to § 23A-28B-31. The department shall file any such order with the commission and shall serve notice of such by mailing a copy to the claimant.

Section 3. That § 23A-28B-29 be repealed.

Section 4. That § 23A-28B-31 be amended to read as follows:

23A-28B-31. The department shall enter an order which shall include:

- (1) Findings of fact;
- (2) The amount of compensation, if any, payable under the provisions of this chapter;
- (3) The name of any person to whom such compensation is payable;
- (4) A notice that the claimant may request commission review of the order in accordance with § 23A-28B-32; and

(5) Any other information which the department deems necessary.

Section 5. That § 23A-28B-32 be amended to read as follows:

23A-28B-32. If a claimant disagrees with an order entered by the department, the claimant, within fifteen days from the date of service of the order, may request a review of the claim by the commission. A request for review shall be in writing in a form prescribed by the commission. Upon receipt of a request for review, the commission shall treat the department order as a recommendation by the department and shall hold a hearing to decide the claim. The hearing shall be held upon at least thirty days notice to the claimant and any other interested persons. The commission shall consider the order of the department and any objections to the order by the claimant. In addition, the commission may subpoena persons or documents, administer oaths or affirmations and receive any additional relevant evidence which the commission deems necessary to decide the compensability of the claim. Based upon evidence presented at the hearing, the commission may adopt, modify, or reject the order of the department. A record of all proceedings at the hearing shall be kept. Any hearing held pursuant to this section may not be deemed a contested case hearing and the provisions of §§ 1-26-16 to 1-26-37, inclusive, governing contested cases and appeals therefrom do not apply. However, the commission shall adopt procedural rules pursuant to chapter 1-26 governing hearings held pursuant to this section. If no request for review is received within fifteen days, the department order shall become final with no further action by the commission and compensation shall be paid in accordance therewith.

Section 6. That chapter 23A-28B be amended by adding thereto a NEW SECTION to read as follows:

Upon request of the claimant and subject to the limitations set forth in this chapter, including any rules promulgated pursuant to § 23A-28B-20, the department may amend an order entered by the commission pursuant to § 23A-28B-32. However, such amendments may not exceed five percent of the total amount authorized by the commission. The department may not award compensation for the

claim if the commission denied compensation.

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I certify that the attached Act
originated in the

HOUSE as Bill No. 1026

Chief Clerk
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Speaker of the House

Attest:

Chief Clerk

President of the Senate

Attest:

Secretary of the Senate

House Bill No. 1026

File No. _____

Chapter No. _____

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Received at this Executive Office
this ____ day of _____ ,

19__ at ____ M.

By _____
for the Governor
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The attached Act is hereby
approved this _____ day of
_____, A.D., 19__

Governor

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STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed _____, 19__
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State